



The Madhya Pradesh Excise Act, 1915

Act 2 of 1915

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Beer, Bottle, Chief Revenue Authority, Common Drinking-House, Denatured, Excisable Article, Excise Officer, Excise Revenue, Export, Import, Intoxicant, Intoxicating Drug, Liquor, Manufacture, Place, Sale, Tari, Transport

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THE MADHYA PRADESH EXCISE ACT, 1915

(No. 2 of 1915)

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THE MADHYA PRADESH EXCISE ACT, 1915

(No. 2 of 1915)¹

(10th April, 1915)

An Act to consolidate and amend the Excise Law in [Madhya Pradesh].²

Preamble.

Whereas it is expedient to consolidate and amend the law in [Madhya Pradesh]³ relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs; and whereas the previous sanction of the Governor-General, required under section 5 of the Indian Councils Act, 1892 (55 and 56, Vict., C.14), has been obtained to the passing of this Act;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the [Madhya Pradesh]⁴ Excise Act, 1915.

[(2) It extends to and shall be in force in whole of the Madhya Pradesh].⁵

[(3) * * * * *]⁶

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “beer” includes ale, stout, porter and all other fermented liquors usually made from malt;

(2) “bottle” means to transfer liquor from a cask or other vessel to a bottle, jar, flask or other similar receptacle for the purpose of sale, and bottling includes re-bottling;

(3) “Chief Revenue authority” means the authority declared by the State Government [* * * * *]⁷ to be the Chief Revenue authority for the purposes of this Act;

[(3-A) * * * * *]⁸

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1. For Statement of Objects and Reasons, see Central Provinces Gazette, 1914, Part VII, P. 25, for Report of Select Committee see *ibid*, 1915, Part VII, P. 3 and for proceedings in Council, see *ibid*, 1914 Part VIII, PP. 6 and 8 *ibid*, 1915, Part VIII, P. 19.
 2. Subs. by A. O. 1950, for “the Central Provinces and Berar”
 3. Subs. by M. P. Act 23 of 1958, S 3 (1), Schedule, Part A, item 21.
 4. Omitted by M. P. Act. 12 of 1950, S. 3 (2), Third Schedule, item 2.
 5. Words “subject to the control of “Governor-General in Council” omitted by Central Act 38 of 1920 S. 2 and First Schedule.
 6. Omitted by Central Act 2 of 1930.

[(4) "Common drinking-house" means a place where drinking of liquor is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care or management or control of such place, whether by way of charge for the use of the place, or for drinking facilities provided, or otherwise howsoever;]¹

(5) "denatured" means rendered unfit for human consumption in such manner as may be prescribed by the State Government in this behalf;

[(6) "excisable article" means—

(a) any alcoholic liquor for human consumption; or

(b) any intoxicating drug;]² [or]³

[(c) opium as defined in clause (xv) and poppy straw as defined in clause (xviii) of section 2 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (No. 61 of 1985);]⁴

⁵[6-a] "excise duty" and "countervailing duty" means any such excise duty or countervailing duty, as the case may be, as is mentioned in [entry 51]⁶ of list II in the Seventh Schedule to the [Constitution;]⁷

(7) "Excise-officer" means a Collector or any officer or other person appointed or invested with powers under section 7;

⁸[(8) "excise revenue" means revenue derived or derivable from [any duty, fee, tax, penalty, payment]⁹ (other than a fine imposed by a Court of law) or confiscation imposed or ordered or agreed to under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs;]

¹⁰[(9) "export" means to take out of the [State]¹¹ otherwise than across a customs frontier as defined by the Central Government;]

[(10) * * * * *]¹²

-
1. Ins. by C. P. Act 6 of 1934, S. 2.
 2. Subs. by A.O. 1950.
 3. Ins. by M. P. Act 5 of 1986, S. 2 (a).
 4. Ins. *ibid*.
 5. Ins. by A. O. 1937
 6. Subs. by A. O. 1950 for "item 40."
 7. Subs. *ibid*, for "Government of India Act 1935."
 8. Subs. by M. P. Act 23 of 1979, S. 2.
 9. Subs. by M. P. Act 39 of 1982, S. 2, for "any duty, fee, penalty, payment".
 10. Subs. by A. O. 1937.
 11. Subs. by M. P. Act 23 of 1958, for "Mahakoshal region."
 12. Omitted by Central Act 2 of 1930.

¹[(11) "import" (except in the phrase "import into [* *]² India") means to bring into the [State]³ otherwise than across a customs frontier as defined by the Central Government;]

[(11-a) "intoxicant" means any liquor or intoxicating drug;]⁴

⁵[(12) "intoxicating drug" means—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa* L.), including all forms known as bhang, sindhi or ganja;

[(ii) * * * * *]⁶

(iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

[(iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug not being narcotic drug as defined in the Narcotic Drugs and Psychotropic Substances Act, 1985 (No. 61 of 1985);]⁷

(13) "liquor" means intoxicating liquor, and includes spirits of wine, spirit, wine, tari, beer, all liquid consisting of or containing alcohol, and any substance which the State Government may, by notification, declare to be liquor for the purposes of this Act;

(14) "manufacture" includes every process, whether natural or artificial, by which any [intoxicant]⁸ is produced or prepared and also redistillation and every process for the rectification, flavouring, blending or colouring of liquor;

(15) "place" includes house, building, shop, booth, tent, [enclosure, space,]⁹ vessel, raft and vehicle;

(16) expressions referring to "sale" includes any transfer otherwise than by way of gift;

(17) "spirit" means any liquor containing alcohol obtained by distillation whether it is denatured or not;

(18) "tari" means fermented or unfermented juice drawn from any kind of palm tree; and

(19) "transport" means to move from one place to another within the [State.]³

1. Subs. by A. O. 1937.

2. Word "British" omitted by A. O. 1950.

3. Subs. by M. P. Act 23 of 1958, for "Mahakoshal region".

4. Ins. by A. O. 1937.

5. Subs. by Central Act 2 of 1930

6. Omitted by M. P. Act 5 of 1986, S. 2 (b) (i).

7. Subs. by M. P. Act 5 of 1986, S. 2 (b) (ii).

8. Subs. by A. O. 1937 for "excisable article".

9. Ins. by C. P. Act 6 of 1934, S. 2 (b).

[3.

4. The State Government [may, by notification, declare what, for the purposes of this Act, or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor," respectively :

Power to declare what shall be deemed to be "country liquor" and "foreign liquor", respectively.

[5. (1) The State Government may, by notification, declare with respect either to the whole [State] or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any intoxicant shall, for the purposes of this Act, be the limit of a retail sale.

Definition of retail and wholesale sale.

(2) The sale of any intoxicant in any quantity in excess of the quantity declared in respect thereof under sub-section (1) shall be deemed to be a sale by wholesale.

6. Nothing contained in this Act shall affect the provisions of the Sea Customs Act, 1878(VIII of 1878)⁵ or the Indian Tariff Act, 1894(VIII of 1894),⁶ (except section 6 thereof), or the Cantonment Act, 1910(XV of 1910),⁷ or any rule or order made thereunder.

Saving of enactments.

CHAPTER II

ESTABLISHMENT AND CONTROL

7. The State Government may, by notification, for the whole or for any specified part of the [State]⁴—

Establishment and powers thereof.

- (a) appoint an officer, hereinafter referred to as the Excise Commissioner, who subject to such control (if any) as the State Government may direct, shall superintend the administration of the Excise Department and the collection of the excise revenue;
- (b) appoint any person other than the Collector to exercise all or any of the powers and to perform all or any of the duties conferred and imposed on a Collector by or under this Act, either concurrently with or in subordination to, or in exclusion of the Collector, subject to such control as the State Government may direct;

1. Omitted by Central Act 2 of 1930.

2. Words "with the previous sanction of the Governor-General in Council" omitted by Central Act 38 of 1920, S.2 and First Schedule.

3. Proviso omitted by A. O. 1937.

4. Subs. by M. P. Act 23 of 1958, S. 3 (1), Schedule, Part A, item 21, for "Mahakoshal region".

5. See now the Customs Act, 1962 (52 of 1962).

6. See now the Indian Tariff Act, 1934 (32 of 1934).

7. See now the Cantonment Act, 1924 (2 of 1924).

- (c) appoint officers of the Excise Department of such classes and with such designations, powers and duties as the State Government may think fit;
- (d) order that all or any of the powers and duties assigned by or under this Act to any officer appointed under clause (c) shall be exercised and performed by any servant of the [Government]¹ or any other person;
- (e) delegate to the Chief Revenue authority or the Excise Commissioner all or any of its powers under this Act, except the power conferred by section 62 to make rules ;
- (f) withdraw from any officer or person all or any of his powers under this Act; and
- (g) permit the delegation by the Chief Revenue authority, the Excise Commissioner or the Collector to any person or class of persons specified in such notification of any powers conferred or duties imposed upon it or him by or under this Act, or exercised or discharged by it or him in respect of the excise revenue under any other Act for the time being in force.

Establishment of flying squads.

[7-A. (1) The State Government may, by notification, establish flying squads for investigating into any case of alleged or suspected evasion of excise revenue or any case of alleged or suspected contravention of any of the provisions of this Act or the rules made thereunder and shall specify therein the area over which the flying squad shall exercise jurisdiction.

(2) A flying squad established under sub-section (1) shall consist of excise officers and other persons as the State Government may, from time to time, appoint thereto.

(3) The Excise officers or other person appointed to the flying squad shall exercise the powers and perform the duties as may be conferred or imposed under section 7 .]²

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

8. The State Government may, by notification,—

- (a) [* *]³ prohibit throughout the [State]⁴ or in any specified area thereof, the import or export of any intoxicant;

Power to prohibit import, export or transport.

1. Subs. by AO 1950 for "Crown",
 2. Ins. by M.P. Act 23 of 1979, S.3.
 3. words "with the previous sanction of the Governor General in Council" omitted by Central Act 38 of 1920, S.2 and first Schedule.
 4. Subs. by M.P. Act 23 of 1958, S.3 (1), Schedule, Part A, item 21, for "Mahakoshal region"

- (b) prohibit the transport of any intoxicant:

[* * * *] ¹

- [(c) make suitable provision for the effective control of Mahua (Bassia Latifolia and Bassia Longifolia) or any other base which is or which can be utilised for the manufacture of liquor.] ²

9. Without the sanction of the State Government no intoxicant shall be imported, exported or transported, except—

Restriction on import, export or transport.

- (a) after payment of any [duty to which it may be liable under this Act] ³, or execution of a bond for such payment ; and
- (b) on compliance with such conditions as the State Government may impose.

10. No intoxicant exceeding such quantity as the State Government may, by notification, prescribe, either generally or for any specified area, shall be imported, exported or transported except under a pass issued, or deemed to be issued, under the provisions of this Act:

Requirement of pass for import, export or transport.

Provided that in the case of duty-paid foreign liquor such passes shall be dispensed with, unless the State Government shall, by notification, otherwise direct with respect to any local area.

11. (1) Passes for the import, export or transport of intoxicants may be granted by the Collector:

Passes for import, export or transport.

Provided that passes for the import and export such intoxicants as the Excise Commissioner may, from time to time, determine shall be granted only by the Excise Commissioner.

(2) Such passes may be either general for definite periods and kinds of intoxicants, or special for specified occasions and particular consignments only.

12. The Excise Commissioner may, by general or special order, direct, subject to such conditions (if any) as he may impose, that a pass granted by any authority in India shall be deemed to be a pass for any purpose under this Act.

Passes issued by other authorities may be deemed passes granted under this Act.

CHAPTER IV

MANUFACTURE, POSSESSION AND SALE

13. (a) No intoxicant shall be manufactured or collected;

Licence required for manufacture, etc., of intoxicants.

1. Proviso omitted by A.O. 1937.

2. Added by M. P. Act 23 of 1958, S.3 (1), Schedul, Part A, item 21.

3. Subs. by A.O. 1937, for "duty of customs or excise to which it may be liable".

- (b) no hemp plant, [* * *]¹ [* * *]² shall be cultivated;
- (c) no tari-producing tree shall be tapped and no tari shall be drawn from any tree;
- (d) no liquor shall be bottled for sale;
- (e) no distillery or brewery shall be constructed or worked; and
- (f) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari;

except under the authority and subject to the terms and conditions of a licence granted in that behalf :

Provided that the State Government may, by notification, declare that the provisions of this section shall not apply, in any area specified in this behalf, to the tapping of tari-producing trees, or to the drawing of tari subject to such conditions as it may prescribe :

³[Provided further that the State Government may, by notification, declare that the provisions of this section shall, [* *]⁴, not apply in such areas as may be specified in this behalf to the manufacture of liquor for home consumption, subject to such conditions as it may prescribe.]

Establishment or licensing
of distilleries and ware-
houses.

14. The Excise Commissioner may—

- (a) establish a distillery in which spirit may be manufactured under a licence granted under section 13 on such conditions as the State Government may impose;
- (b) discontinue any such distillery;
- (c) licence, on such conditions as the State Government may impose, the construction and working of a distillery or brewery;
- (d) establish or licence a warehouse, wherein any intoxicant may be deposited and kept without payment of duty, but subject to payment of such fee as the State Government may direct; and
- (e) discontinue any such warehouse.

1. Words "or coca plant" omitted by Central Act 2 of 1930.
 2. Words "Erythroxylon coca" omitted by C.P. Act 1 of 1927, S.3.
 3. Proviso Ins. by M. P. Act 12 of 1950, S.3 (2), Third Sch.
 4. Words "in the merged territories" omitted by M. P. Act 23 of 1958, S.3 (3), Schedule, Part A item 21.

15. Without the sanction of the State Government no intoxicant shall be removed from any distillery, brewery, warehouse, or other place of storage established or licenced under this Act unless the duty (if any) [payable under Chapter V]¹ has been paid or a bond has been executed for the payment thereof.

Payment of duty on removal from distillery, brewery or place of storage.

16. (1) The State Government may, by notification, prescribe a limit of quantity for the possession of any intoxicant :

Possession of intoxicants generally.

Provided that different limits may be prescribed for different qualities of the same article.

(2) No person shall have in his possession any quantity of any intoxicant in excess of the limit prescribed under sub-section (1), except under the authority and in accordance with the terms and conditions of—

- (a) a licence for the manufacture, cultivation, collection, sale, or supply of such intoxicant, or
- (b) a pass for the import, export or transport of such intoxicant, or
- (c) a permit granted under this Act.

(3) Sub-section (2) shall not apply to any foreign liquor—

- (a) which is in the possession of any common carrier or warehouseman as such [* *]²

[(b) * * *]³

(4) Notwithstanding anything contained in the foregoing sub-sections, the State Government may, by notification, prohibit the possession by any person or class of persons, either in the [State]⁴ or in any specified area, of any intoxicant, either absolutely, or subject to such conditions as it may prescribe.

17. (1) No intoxicant shall be sold except under the authority and subject to the terms and conditions of licence granted in that behalf :

Licence required for sale of intoxicants.

Provided that—

- (a) a person having the right to the tari drawn from any trees may sell such tari without a licence to a person licenced to manufacture or sell tari under this Act;
- (b) a person licenced under section 13 to cultivate the hemp plant [* *]⁵ [* *]⁶ may sell without a licence those portions of the plant from which the intoxicating drug is manufactured or produced to any person licenced under this Act to deal in the same, or to any officer whom Excise Commissioner may prescribe; and

1. Subs. by A.O. 1937, for "imposed under section 25".

2. Word "or" omitted by M.P. Act 19 of 1964, S.2.

3. Omitted, *ibid*.

4. Subs. by M.P. Act 23 of 1958, S.3 (3), Schedule, Part A, item 21, for "Mahakoshal region."

5. Words "or coca plant" omitted by Central Act 2 of 1930.

6. Words "Erythroxylon coca" omitted by C.P. Act 1 of 1927, S.3.

- (c) nothing in this section shall apply to the sale of any foreign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

(2) On such conditions as the Excise Commissioner may determine, a licence for sale under the Excise Law for the time being in force [in other State or Union territories]¹ may be deemed to be a licence granted in that behalf under this Act.

Power to grant lease of right to manufacture, etc.

18. (1) The State Government may lease to any person, on such conditions and for such period as it may think fit, the right—

- (a) of manufacturing, or of supplying by wholesale, or of both, or
- (b) of selling by wholesale or by retail, or
- (c) of manufacturing or of supplying by wholesale, or of both, and selling by retail,

any [* * *]² liquor or intoxicating drug within any specified area.

(2) The licensing authority may grant to a lessee under subsection (1) a licence in the terms of his lease; and when there is no condition in the lease which prohibits sub-letting, may, on the application of the lessee, grant a licence to any sub-lessee approved by such authority.

Lessee's permission to draw tari.

19. Where a right of manufacturing tari has been leased under section 18, the State Government may declare that the written permission of the lessee to draw tari shall have the same force and effect as a licence from the Collector for that purpose.

Manufacture and sale of liquor in Military cantonments.

20. Within the limits of any Military Cantonment, and within such distance from those limits as the [Central Government]³ in any case may prescribe, no licence for the retail sale of liquor shall be granted, except with the knowledge and consent of the Commanding Officer.

Duties of licensees with regard to measurement and testing.

21. Every person who manufactures or sells any intoxicant under a licence granted under this Act shall be bound—

- (a) to supply himself with such measures, weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition on the licensed premises; and
- (b) on the requisition of any Excise Officer duly empowered in that behalf at any time to measure, weight or test any intoxicants in his possession in such manner as the said Excise Officer may require.

1. Subs. by A.O. 1956 for "in other Part A States or Part C States."

2. Word "country" omitted by M.P. Act. 19 of 1964, S. 2.

3. Subs. by A.O. 1937, for "Local Government".

[22. No person who is licensed to sell intoxicants for consumption on his premises shall, during the hours in which such premises are kept open for business, employ, or permit to be employed either with or without remuneration, any male person under the age of twenty-one years or any woman in any part of such premises in which such intoxicant is consumed by the public.

Prohibition of employment of male persons under the age of twenty-one years and of women.

23. No person who is licensed to sell intoxicants shall sell or deliver any liquor or intoxicating drug to any person apparently under the age of twenty-one years whether for consumption by such person or by another person or whether for consumption on or off the premises of such vender.]¹

Prohibition of sale of liquor or intoxicating drug to persons under the age of twenty-one years.

[23-A. (1) In this section, "advertisement" includes—

Prohibition of advertisements relating to liquor.

- (a) any notice, circular, label, wrapper or other documents;
- (b) any announcement made orally or by any means of producing or transmitting light, sound or smoke;
- (c) any exhibition by means of slide or film exhibited on the screen in a cinema licenced under the Madhya Pradesh Cinemas (Regulation) Act, 1952 (No. 17 of 1952) or at any other place of entertainment.

(2) Whoever prints or publishes or causes to be printed or published in any newspaper, book, leaflet, booklet or any other single or periodical publication or otherwise displays or distributes or causes or permits to be displayed or distributed any advertisement or other matter commending, soliciting the use of, or offering or purporting to commend, soliciting the use of, or commending any liquor shall be punished for every such offence with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(3) Except as otherwise provided in sub-section (4), nothing in sub-section (2) shall apply to —

- (a) catalogues or price-lists to be displayed on liquor vends in Madhya Pradesh in accordance with the provisions of this Act or the rules made thereunder;
- (b) any advertisement or other matter contained in any newspaper, book, leaflet, booklet or other publication printed and published outside Madhya Pradesh;
- (c) any advertisements or other matter contained in any newspaper printed and published in Madhya Pradesh before such date as the State Government may, by notification, specify; and
- (d) any other advertisement or matter which the State Government may, by notification, generally or specially exempt from the operation of this section.

1. Subs. by M.P. Act 39 of 1982, S. 3.

(4) Notwithstanding anything contained in sub-section (3), the State Government may, by notification, prohibit within the State the circulation, distribution or sale of any newspaper, book, leaflet, booklet or other publication printed and published outside the State which contains any advertisement or matter commending, soliciting the use of, or offering or purporting to commend, soliciting the use of, or offering any liquor and whoever circulates, distributes or sells such newspaper, book, leaflet, booklet or other publication, in contravention of such notification, shall be punished for every such offence with imprisonment which may extend to six months or with fine which may extend to two thousand rupees; or with both.

(5) When any newspaper, book, leaflet, booklet or other publication wherever printed or published appears to the State Government to contain any advertisement or matter commending, soliciting the use of, or offering any liquor, the State Government may, by notification, declare every copy of the issue of the newspaper and every copy of such book, leaflet, booklet or other publication to be forfeited to Government, and thereupon any Excise Officer, any officer of the police or revenue department and any other person authorised in that behalf by the State Government may seize the same wherever found in Madhya Pradesh and any Collector or Judicial Magistrate of the first class or second class or other officer authorised by the State Government may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue of any such book, leaflet, booklet or other publication may be or may be reasonably suspected to be.]¹

Closing of shops for the sake of public peace.

24. (1) The District Magistrate, by notice in writing to the licensee, may require that any shops in which any intoxicant is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

(2) If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, a Magistrate of any class, who is present, may require such shop to be kept closed for such period as he may think necessary:

Provided that, when any such riot or unlawful assembly occurs, a licensee shall, in the absence of the Magistrate, close his shop without any order.

(3) When any Magistrate issues an order under sub-section (2), he shall forthwith inform the Collector of his action and his reasons therefor.

CHAPTER V

Duties and Fees

Duty on excisable articles.

25. [(1) An excise duty or a countervailing duty, as the case may be, shall, if the State Government so direct, be levied on all excisable articles other than medicinal and toilet preparations specified for the time being in the Schedule to the Medical

1. Ins. by M.P. Act 23 of 1978, S. 2.

and Toilet Preparation (Excise Duties) Act, 1955 (No. 16 of 1955)—

- (a) imported; or
- (b) exported; or
- (c) transported; or
- (d) manufactured, cultivated or collected under any licence granted under section 13; or
- (e) manufactured in any distillery established, or any distillery or brewery licensed, under this Act:

Provided that it shall be lawful for the State Government to exempt any excisable article from any duty to which the same may be liable under this Act.]¹

[(2) Duty may be imposed under sub-section (1) at different rates according to—

- (i) the place to which any excisable article is to be removed; or
- (ii) the strength and quality of excisable article; or
- (iii) the use of excisable article for different purposes.]²

(3) Notwithstanding anything contained in sub-section (1),—

- (i) duty shall not be imposed thereunder on any article which has been imported into [* *]³ India and was liable, on such importation, to duty under the Sea Customs Act, 1878 (VIII of 1878)⁴, or the the Indian Tariff Act 1894 (VIII of 1894.)⁵
[(* * *)]⁶

[(ii) * * * * *]⁷

[(4) Nothing contained in this section shall be construed to preclude the State Government from enhancing or reducing the rates of duty during the course of a financial year and the power to enhance or reduce the rate of duty shall include power to give retrospective effect to such enhancement or reduction from a date not earlier than the commencement of the financial year.]⁸

1. Subs. by M.P. Act 23 of 1979, S. 4.

2. Subs. by M.P. Act 14 of 1987, S. 2.

3. Word "British" omitted by A.O. 1950.

4. See now the Customs Act, 1962 (52 of 1962)

5. See now the Indian Tariff Act, 1934 (32 of 1934).

6. Words "or on any article which has been imported into any Part other than the Mahakoshal region of Madhya Pradesh as formed by the provisions of part II of the State Reorganisation Act, 1956 (37 of 1956), and on which a duty has already been paid on such importation under any corresponding law in force in that part" omitted by M. P. Act 23 of 1958, S.3(1), Schedule, Part A, item 21.

7. Omitted by A.O. 1937.

8. Ins. by M.P. Act 39 of 1982, S.4.

Ways of levying such duty.

26. (1) Subject to such rules regulating the time, place and manner as the State Government may prescribe, such duty shall be levied rateably on the quantity of excisable article imported, exported, transported, collected or manufactured in or issued from a distillery, brewery or warehouse :

Provided that duty may be levied—

- (a) on intoxicating drugs by an acreage rate levied on the cultivation of the hemp plant [* *]¹ [* *]² or by a rate charged on the quantity collected;
- (b) on spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Act—
 - (i) in accordance with such scale or equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the State Government may prescribe; or
 - (ii) by a rate charged directly on the materials used;
- (c) on tari, by a tax on each tree from which the tari is drawn.

(2) Where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from the warehouse.

[(3) Where the rate of duty is enhanced or reduced after payment of duty on issue of excisable article from warehouse and the excisable article is in stock with a holder of a licence, the excisable article in stock shall be subject to the levy of duty at the rate so enhanced or reduced and the difference in duty shall be payable or refundable, as the case may be, by or to the holder of a licence, with whom such duty paid excisable article is in stock at the material time.]³

Payment for grant of leases.

• 27. [(1)]⁴ Instead of or in addition to any duty leviable under this Chapter, the State Government may accept payment of a sum in consideration of the grant of any lease under section 18.

[(2) Nothing contained in sub-section (1) shall be construed to preclude the State Government from enhancing or reducing the sum received in consideration of a grant of any lease under section 18 during the course of a financial year or during the currency of a licence and the power to enhance or reduce the sum shall include power to give retrospective effect to such enhancement or reduction from a date not earlier than the commencement of the financial year.]⁵

1. Words "or coca plant" omitted by Central Act 2 of 1930.
 2. Words "Erythroxylon coca" omitted by C.P. Act 1 of 1927, S. 3.
 3. Ins. by M.P. Act 39 of 1982, S. 5.
 4. Renumbered by M.P. Act 15 of 1988, S. 2.
 5. Ins. by M. P. Act 15 of 1988 S. 2.

¹[27-A. (1) Until provision to the contrary is made by [Parliament]² the State Government may continue to levy any duty to which this section applies which it was lawfully levying immediately before the commencement of [the Constitution]³ under this Chapter as then in force.

Saving for duties being levied at commencement of the Constitution.

(2) The duties to which this section applies are—

- (a) any duty on intoxicant which are not excisable articles within the meaning of this Act;
- (b) any duty on an excisable article produced outside India and imported into the [State]⁴ whether across a customs frontier as defined by the Central Government or not;

[(c) * * * * *]⁵

(3) Nothing in this section shall authorise the levy by the State Government of any duty which, as between goods manufactured or produced in the [State]⁴ and similar goods not so manufactured or produced discriminates in favour of the former, or which, in the case of goods manufactured or produced outside the [State],⁴ discriminates between goods manufactured or produced in one locality and similar goods manufactured or produced in an other locality.]

CHAPTER VI

LICENCES, PERMITS AND PASSES

28. Every licence, permit or pass granted under this Act—

Form and conditions of licences etc.

- (a) shall be granted—
 - (i) on payment of such fees (if any),
 - (ii) for such period,
 - (iii) subject to such restrictions, and on such conditions, and
- (b) shall be in such form and contain such particulars, as the State Government may direct either generally by rules made under section 62 or in any particular instance.

1. Ins. by A. O. 1937.

2. Subs. by A. O. 1950, for "the Central Legislature".

3. Subs., *ibid.*, for "Part III of the Government of India Act, 1935".

4. Subs. by A. O. 1950, for "Mahakoshal region".

5. Omitted by M. P. Act 23 of 1958, S. 3 (3), Schedule, Part—A, item 21.

Power to take security from licensee.

Technical defects, irregularities and omissions.

Power to cancel or suspend licence, etc.

[29. Any authority granting a licence under this Act may require the licensee to execute a counterpart agreement in conformity with the tenor of his licence and to give such security for the performance of such agreement, or to make such deposit or to provide both as such authority may think fit.]¹

30. (1) No licence granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the licence or in any proceedings taken prior to the grant thereof.

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

31. (1) Subject to such restrictions as the State Government may prescribe, the authority granting any licence, permit or pass under this Act may cancel or suspend it,—

- (a) if any duty or fee payable by the holder thereof be not duly paid; or
- (b) in the event of any breach by the holder thereof or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions thereof; or
- (c) if the holder thereof, or any of his servants, or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Act or any other law for the time being in force relating to revenue, or of any offence [under the Dangerous Drugs Act, 1930 (II of 1930),]² or under the Indian Merchandise Marks Act, 1889 (IV of 1889),³ or under any section which has been introduced into the Indian Penal Code, 1860 (XLV of 1860), by section 3 of that Act; or
- (d) if the holder thereof is convicted of any cognizable and non-bailable offence; or
- (e) if the holder thereof is punished for any offence referred to in clause (8) of section 167 of the Sea Customs Act, 1878 (VIII of 1878);⁴ or
- (f) where a licence, permit or pass has been granted on the application of the holder of any lease granted under section 18, on the requisition in writing of such lessee; or
- (g) if the conditions of the licence, permit or pass provide for such cancellation or suspension at will.

1. Subs. by M. P. Act 11 of 1970, S. 2.

2. Ins. by Central Act 2 of 1930.

3. See now the Trade and Merchandise Marks Act, 1958 (43 of 1958).

4. See now the Customs Act, 1962 (52 of 1962).

[(1-A) Before making an order cancelling or suspending a licence, permit or pass under sub-section (1), the authority aforesaid shall record in writing the reasons for the proposed action, furnish to the holder thereof a brief statement of the same and afford him a reasonable opportunity of being heard.]¹

(2) Where a licence, permit or pass held by any person is cancelled under clause (a), clause (b) or clause (c) or Clause (e) of sub-section (1), the authority aforesaid may cancel any other licence, permit or pass granted to such person under this Act or under any other law for the time being in force relating to excise revenue, or under the Opium Act, 1878 (I of 1878).

(3) The holder of a licence, permit or pass shall not be entitled to any compensation for its cancellation or suspension, nor to the refund of any fee paid or deposit made in respect thereof.

(4) Where a licence is cancelled or suspended under clause (a), clause (b), clause (c) or clause (e) of sub-section (1),—

- (a) the fee payable for the balance of the period for which such licence would have been current but for such cancellation or suspension, may be recovered from the ex-licensee as excise-revenue;
- (b) the Collector may take the grant under management or resale it at the risk and loss of the ex-licensee, but any profit realised by such management or resale which is not in excess of the amount recovered under clause (a) for such period shall be paid to the ex-licensee.

32. (1) Whenever the authority which granted any licence under this Act considers that such licence should be withdrawn for any cause other than those specified in Section 31, it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the licence either—

Power to withdraw licences.

- (a) on the expiration of fifteen day's notice in writing of its intention to do so, or
- (b) forth-with without notice.

(2) If any licence be withdrawn under clause (b) of sub-section (1), the aforesaid authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum (if any) by way of compensation as the Excise Commissioner may direct.

(3) When a licence is withdrawn under sub-section (1), any fee paid in advance to deposit made by the licensee in respect thereof shall be refunded to him, after deducting the amount (if any) due to the Government.

Surrender of licences.

33. (1) Any holder of a licence granted under this Act to sell an intoxicant may surrender his licence on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same, and on payment of the fee payable for the licence for the remainder of the period for which it would have been current but for such surrender :

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a licence he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

(2) Sub-section (1) shall not apply in the case of any licence granted under section 18.

Explanation.—The words “holders of a licence”, as used in this section, include a person whose tender or bid for a licence has been accepted, although he may not actually have received the licence.

[33-A. * * *]¹

CHAPTER VII

Offences and Penalties

Penalty for illegal import etc.

2[34. Whoever in contravention of this Act or of any rule, notification or order made, issued or given thereunder, or of any licence, permit or pass granted under this Act—

- (a) imports, exports, transports, manufactures, collects or possesses any intoxicant; or
- (b) save in the cases provided for in section 38, sells any intoxicant; or
- (c) cultivates any hemp plant; or
- (d) taps or draw tari from any tari producing tree; or
- (e) constructs or works any distillery or brewery; or
- (f) uses, keeps or has in his possession any materials, still utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than tari; or
- (g) removes any intoxicant from any distillery, brewery or warehouse licensed, established or continued under this Act; or
- (h) bottles any liquor;

1. Omitted by M. P. Act 23 of 1958, S, 3 (1), Schedule, Part A, item 21.

2. Subs. by M. P. Act 23 of 1979, S. 6.

[shall be punishable for every such offence with imprisonment for a term which may extend to one year and fine which shall not be less than two hundred rupees but which may extend to two thousand rupees;]¹

Provided that when any person is convicted under this section of any offence for a second or subsequent time, he shall be punishable for every such offence with imprisonment for a term which shall not be less than one month but which may extend to twenty-four months and with fine which shall not be less than three hundred rupees but which may extend to three thousand rupees.]

35. ²[Who ever—

(a) alters or attempts to alter any [denatured spirit or denatured spirituous preparation]³ with the intention that such spirit may be used for human consumption, whether as a beverage or internally as a medicine, or in any other way whatsoever, by any method whatsoever; or

(b) has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made with the intention specified in clause (a), shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to two years and also with fine which shall not be less than one thousand rupees but which may extend to four thousand rupees;]

[(c) mixes denatured spirit or such altered denatured spirit or denatured spirituous preparation with potable spirit, shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to two years and also with fine which shall not be less than one thousand rupees but which may extend to four thousand rupees :

Provided that when any person is convicted under this section for a second offence or subsequent offence he shall be punishable for such offence with imprisonment for a term which shall not be less than six months but which may extend to six years and with fine which shall not be less than one thousand five hundred rupees but which may extend to six thousand rupees.

Penalty for altering or attempting to alter any [denatured spirit or denatured spirituous preparation].³

1. Subs. by M. P. Act 39 of 1982, S. 6 for the predicate "shall be punishable for every such offence with imprisonment for a term which may extend to one year, or with fine which shall not be less than two hundred rupees but which may extend to two thousand rupees, or with both".

2. Subs. by M. P. Act 23 of 1979, S. 6.

3. Subs. by M. P. Act 39 of 1982 S. 7 (a) for "denatured spirit".

Explanation.—In this section “denatured spirituous preparation” means any preparation made with denatured spirit and includes liquors, french-polish, varnish and thinners prepared out of such spirituous preparation.]¹

Penalty for illegal possession.

Penalty for opening, keeping or using any place as a common drinking-house or for having care, management or control of, or for assisting in conducting, business of any such place.

Penalty for being found drunk or for purpose of drinking in a common drinking-house.

Penalty for permitting a place to be used for the commission by other person of any offence punishable under section 34, section 35, section 36 or section 36-A.

Execution of bond to abstain from commission of offences punishable under section 34 or section 36.

36. Whoever, without lawful authority, has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

²[36-A. Whoever, in contravention of this Act, or of any rule, notification or order made, issued or given thereunder, or of any licence, permit or pass granted under this Act,—

(a) opens, keeps or use any place as a common drinking-house; or

(b) has the care, management or control of, or in any manner assists in conducting the business of any place opened, kept or used as a common drinking-house;

shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than two hundred rupees but which may extend to two thousand rupees, or with both.

36-B. Whoever in contravention of this Act or rule or notification or any order made, issued or given thereunder, or of any licence, permit or pass granted under this Act, is found drunk or drinking in a common drinking-house or is found there present for the purpose of drinking shall be punishable with fine which may extend to one thousand rupees and any person found in a common drinking-house during any drinking therein shall be presumed, until the contrary is proved, to have been there for the purpose of drinking.

36-C. Whoever, being the owner or occupier or having the use or care or management or control of any place, knowingly permits it to be used for the commission by any other person of any offence punishable under section 34, section 35, section 36 or section 36-A shall be punishable with imprisonment for a term which may extend to one year, or with fine which shall not be less than two hundred rupees but which may extend to two thousand rupees or with both.]³

36-D (1) Whenever any person is convicted of an offence punishable under section 34 or section 36, and the Magistrate convicting him is of opinion that it is necessary to require such person to execute a bond to abstain from the commission of offences punishable under those sections; the Magistrate may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, to abstain from the commission of such offences during such period, not exceeding three years, as he may direct.

1. Ins. by M. P. Act 39 of 1982, S. 7 (b)

2. Ins. by C. P. Act 6 of 1934, S. 6.

3. Subs. by M. P. Act 23 of 1979, S. 7.

(2) The bond shall be in the form contained in the Second Schedule and the provisions of the Code of Criminal Procedure, 1898 (V of 1898)¹ shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

Form of bond and application of the provisions of the Code of Criminal Procedure to all matters connected with such bond.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

Circumstances in which bond shall be void.

(4) An order under this section may also be made by an appellate court, or by the High Court when exercising its powers of revision.

Power of appellate court of the High Court to make order.

36-E (1) Whenever a Magistrate of the first class specially empowered in this behalf by the State Government receives information that any person within the local limits of his jurisdiction habitually commits, or attempts to commit, or abets the commission of an offence punishable under section 34 or section 36, such Magistrate may require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate may direct.

Magistrate to require a person to show cause why he should not be ordered to execute a bond for good behaviour.

(2) The provisions of the Code of Criminal Procedure, 1898 (V of 1898)², shall, in so far as they are applicable, apply to any proceedings under sub-section (1) as if the bond referred to therein were a bond required to be executed under section 110 of that Code.]

Application of provisions of the Code of Criminal Procedure to proceedings under sub-section (1).

^a[37. Whoever, is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or given thereunder and not otherwise provided for in this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Penalty for offences not otherwise provided for.

38. (1) A licensed vendor or any person in his employ and acting on his behalf who—

Penalty for certain unlawful acts of license vendors.

- (a) sell any intoxicant to a person who is drunk or intoxicated; or
- (b) sells or gives any intoxicant to any person in contravention of section 23; or
- (c) in contravention of section 22 employs or permits to be employed on any part of his licensed premises referred to in that section any male person or woman; or
- (d) permits drunkenness, intoxication, disorderly conduct, dancing, singing, playing of music or gaming on the licensed premises of such vendor; or

1. See now the Code of Criminal Procedure, 1973 (2 of 1974).

2. Subs. by M. P. Act 23 of 1979. S. 8.

- (e) permits persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are prostitutes, to resort to or assemble on the licensed premises of such vendor whether for the purposes of crime or prostitution or not;

shall be punishable with fine which shall not be less than one hundred rupees but which may extend to two thousand rupees.

[(2) Where any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness on the premises of such vendor, and it is proved that any person was drunk on such premises, the burden shall lie on the person charged to prove that the licensed vendor and the persons employed by him took all reasonable steps for preventing drunkenness on such premises]¹

Penalty on licensed manufacturer or vendor of intoxicant for mixing or permitting to be mixed with such article any noxious drug or any foreign ingredient or any diluting or colouring substance.

38-A. If any licensed manufacturer or licensed vendor or any person in his employ and acting on his behalf, mixes or permits to be mixed, with any intoxicant manufactured, sold or kept or exposed for sale by him, any noxious drug, or any foreign ingredient or any diluting or colouring substance except as prescribed in the licence, or has in possession any intoxicant in respect of which such admixture has been made, he shall be punishable with imprisonment which shall not be less than one month but which may extend to one year or with fine which shall not be less than three hundred rupees but which may extend to two thousand rupees or with both.

Penalty for misconduct by licensee, etc.

39. A holder of a licence, permit or pass granted under this Act or any person in the employ of such holder and acting on his behalf, who intentionally—

- (a) fails to produce such licence, permit or pass on the demand of any Excise Officer or of any other officer duly empowered to make such demand; or
- (b) save in a case provided for by section 34, contravenes any rule made under section 62; or
- (c) does any act in breach of any of the conditions of the licence, permit or pass not otherwise provided for in this Act,

shall be punishable in case (a) with fine which may extend to four hundred rupees, and in case (b) or (c) with fine which may extend to [ten thousand rupees]².

Penalty for allowing consumption in chemist's shop, etc.

40. (1) A Chemist, druggist, apothecary or keeper of a dispensary who allows any intoxicant, which has not been bonafide medicated for medicinal purposes, to be consumed on his business premises by any person not employed in his business shall be punishable with imprisonment for a term

1. Ins. by M. P. Act 39 of 1982, S. 8

2. Subs. by M. P. Act 14 of 1987 S. 3, for "one thousand rupees"

which may extend to one year or with fine which shall not be less than five hundred rupees but which may extend to four thousand rupees, or with both.

(2) Any person not employed as aforesaid who consumes any such intoxicant on such premises shall be punishable with fine which may extend to five hundred rupees.

40-A. Whoever assaults or obstructs—

Punishment for obstruction to or assault on, officer, etc.

- (a) any excise officer or person exercising powers under this Act, or
- (b) any informant or other person helping any such officer or person while exercising powers under this Act,

shall be punishable with imprisonment which may extend to two years or with fine which may extend to two thousand rupees or with both.]

41. (1) Where any intoxicant has been manufactured or sold or is possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture or sale was, or that such possession is, on his account the intoxicant shall, for the purposes of this Act, be deemed to have been manufactured or sold by, or to be in the possession of, such other person.

Manufacture, sale or possession by one person on account of another.

(2) Nothing in sub-section (1) shall absolve any person who manufactures, sells or has possession of an intoxicant on account of another person from liability to any punishment under this Act for the unlawful manufacture, sale or possession of such intoxicant.

42. Whoever, attempts to commit or abets any offence punishable under this Act shall be liable to the punishment provided for such offence.

Attempts to commit, and abetment of offences.

43. In prosecutions under section 34, section 35 and section 36 it [shall be presumed, until the contrary is proved]¹, that the accused person has committed an offence punishable under that section in respect of—

Presumption as to commission of offence in certain cases.

- (a) any intoxicant, or
- (b) any still, utensil, implement or apparatus whatsoever for the manufacture of any intoxicant other than tari, or
- (c) any materials which have undergone any process towards the manufacture of an intoxicant, or from which an intoxicant has been manufactured,

for the possession of which he is unable to account satisfactorily.

1. Subs. by C. P. Act 6 of 1934, S. 8, for "may be presumed."

Criminal liability of
licensee for acts of servants.

44. Where any offence under section 34, section 35, section 36, [section 36-A]¹, section 38, [section 38-A]¹, or section 39 is committed by any person in the employ and acting on behalf of the holder of a licence, permit or pass granted under this Act, such holder shall also be punishable as if he had himself committed the same, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that no person other than the actual offender shall be punishable with imprisonment except in default of payment of fine.

Enhanced punishment
after previous conviction.

45. If any person after having been previously convicted of an offence punishable under section 34, section 35 section 36, [section 36-A, section 36-B]², [section 36-C]³ or section 40 or under the corresponding provisions in any enactment repealed by this Act, subsequently commits and is convicted of an offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

[Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXI of the Code of Criminal Procedure, 1973 (No. 2 of 1974), from being so tried.]⁴

Liability of certain things
to confiscation.

46. (1) Whenever an offence has been committed which is punishable under this Act, the intoxicant materials, still, utensil, implement or apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.

(2) Any intoxicant lawfully imported, transported, manufactured, held in possession or sold along with, or in addition to, any intoxicant liable to confiscation under sub-section (1), and the receptacles, packages and coverings in which any such intoxicant, materials, still, utensil, implements or apparatus as aforesaid is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts, vessels, rafts or other conveyance used in carrying the same, shall likewise be liable to confiscation :

Provided that no animals, carts, vessels, rafts or other conveyance shall be liable to confiscation if it is proved that they are not the property of the offender and if the owner thereof establishes that he had no reason to believe that such offence was being or was likely to be committed.

-
1. Ins. by C. P. Act 6 of 1934, S. 9
 2. Ins. by C. P. Act 6 of 1934, S. 10.
 3. Ins. by C. P. Act 56 of 1948. S. 3.
 4. Subs. by M. P. Act 23 of 1979. S. 9.

47. (1) Where in any case tried by him the Magistrate decides that anything is liable to confiscation under section 46, he may either order confiscation or may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit.

Order of confiscation.

(2) When an offence under this Act has been committed, but the offender is not known or cannot be found, the case shall be enquired into and determined by the Collector, who may order confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto, and the evidence (if any) which he may produce in support of his claim :

Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that sale would be for the benefit of its owner, the Collector may at any time direct it to be sold; and the provisions of this subsection shall, as nearly as may be practicable, apply to the net proceeds of such sale.

48. [(1) The Collector may--

Power to compound offences.

- (a) accept from any person whose licence, permit or pass is liable to be cancelled or suspended under clauses (a) and (b) of section 31, who is reasonably suspected of having committed an offence under section 37, section 38, section 38-A (except in a case to which proviso to that section applies) or section 39, a sum of money not exceeding ten thousand rupees in lieu of such cancellation or suspension or by way of composition for such offence, as the case may be, or may impose as a penalty a sum not exceeding ten thousand rupees, and, may in either case, order the confiscation of articles which are seized; and
- (b) in any case in which any property has been seized as liable to confiscation under this Act, may at any time before an order of confiscation has been passed by a Judicial Magistrate, release the same on payment of the value thereof was estimated by the Collector.]¹

(2) On the payment of such sum of money, or such value, or both, as the case may be, to the Collector, the accused person, if in custody, shall be discharged, the property seized (if any) shall be released; and no further proceedings shall be taken against such person or property.

Penalty on officers making
vaxatious search, seizure,
detention or arrest.

49. Any Excise officer or officer of the Police or Land Revenue Department or any other person duly empowered under section 52, who vaxatiously and unnecessarily—

- (a) enters or searches or causes to be entered or searched any place under colour of exercising any power conferred by this Act, or
- (b) seized the movable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or
- (c) detains, searches or arrests any person,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII-A

PENALTY FOR OFFENCES AGAINST LIFE

Penalty for import etc. of
liquor unfit for human
consumption or for altering
or attempting to alter
denatured spirituous
preparation.

49-A. (1) Whoever—

- (a) imports, exports, transports, manufactures, collects, possesses, bottles or sells any liquor; or
- (b) alters or attempts to alter any denatured spirit or denatured spirituous preparation with the intention that such spirit or denatured spirituous preparation may be used for human consumption, whether as a beverage or internally as a medicine, or in any other form or by any method whatsoever; or
- (c) has in his possession any spirit or denatured spirituous preparation, in respect of which he intentionally or knowingly allows or knowingly suffers any other person to alter or attempt to alter, in either case with the intention specified in clause (b), any spirit into denatured spirit or into a denatured spirituous preparation; or
- (d) mixes denatured spirit or such altered denatured spirit or denatured spirituous preparation with potable spirit, and such liquor, denatured spirit, denatured spirituous preparation, spirit or altered denatured spirit, as the case may be, is found unfit for human consumption or causes injury, to or death of human being,—

shall be punishable —

where such liquor, denatured spirit, denatured spirituous preparation, spirit, or altered denatured spirit, as the case may be—

- (i) is found unfit for human consumption—shall be punishable with imprisonment for a term which shall not be less than two months, but may extend to two years and shall also be liable to fine;

- | | |
|--------------------------------------|--|
| (ii) causes injury to human being— | to imprisonment which shall not be less than four months but may extend two four years and shall also be liable to fine: |
| (iii) causes death of a human being— | to imporsionment which shall not be less than two years but may extend to ten years and shall also be liable to fine. |

(2) When any person is convicted under this section for a second or subsequent offence, he shall be punished in relation to circumstances—

- | | |
|---|---|
| (a) under clause (i) of sub section (2) | with imprisonment which shall not be less than six months but which may extend to four years and shall also be liable to fine ; |
| (b) under clause (ii) of sub-section (2) | with imprisonment which shall not be less than one year but may extend to six years, and shall also be liable to fine ; |
| (c) under clause (iii) of sub-section (1) | to imprisonment for life or imprisonment which shall not be less than five years but may extend to ten years, and shall also be liable to fine. |

49-B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974) or section 59-

Bail not to be allowed for offences under this Chapter

- (i) no application for an anticipatory bail shall be entertained by any court in respect of a person accused of an offence under section 49-A ;
- (ii) no application for bail of a person accused of an offence under section 49-A shall be allowed if opposed by the prosecution :

Provided that no court or magistrate shall authorise detention of such person in custody during the course of investigation for a period exceeding one hundred and twenty days and on the expiry of such period, in the event of the report or complaint not being filed, the accused shall be released forthwith if he is prepared to and does furnish bail]¹

1. Ins. by M. P. Act, 39 of 1982, S. 9.

CHAPTER VIII

DETECTION, INVESTIGATION AND TRIAL OF OFFENCES

Land-holders and others
to give information.

50. Whenever any intoxicant is manufactured or collected, or any hemp plant [* *]¹ [* *]² is cultivated on any land in contravention of this Act,—

- (a) any owner or occupier of such land and any agent of any such owner or occupier; and
- (b) all village-headmen, village-accountants, village-watchmen, and all officers employed in the collection of revenue or rent of land on the part of the Government or the Court of Wards, in the villages, shall, in the absence of reasonable excuse, be bound to give notice of the fact to a Magistrate or to an officer of the Excise, Police or Land Revenue Department, as soon as the fact comes to their knowledge.

Power to enter and inspect
place of manufacture
and sale.

51. The Excise Commissioner, or a Collector or any Excise Officer not below such rank as the State Government may by notification prescribe, or any Police Officer duly empowered in that behalf, may—

- (a) enter and inspect, at any time by day or by night, any place in which any licensed manufacturer manufactures or stores any intoxicant; and
- (b) enter and inspect, at any time within the hours during which sale is permitted and at any other time during which the same may be open, any place in which any intoxicant is kept for sale by any person holding a licence under this Act; and
- (c) examine accounts and registers, and examine, test, measure or weight any materials, stills, utensils, implements, apparatus or intoxicant found in such place.

Power to arrest without
warrant, to seize article
liable to confiscation and
to make searches.

52. (1) Any Excise Officer, or any Police Officer not below such rank as the State Government may by notification prescribe, or any single officer or class of officers of the Land Revenue Department duly empowered in this behalf by notification of the State Government, subject to such restriction as the State Government may prescribe, and any other person, duly empowered by notification of the State Government in this behalf may—

- ³[(a) arrest without warrant any person found committing an offence punishable under [section 23-A, section 34]⁴ section 35, section 36, section 36-A, section 36-B, section 36-C or section 37; and]

1. Words "or Coca plant" omitted by Central Act 2 of 1930.

2. Words "Erythroxylon coca" omitted by C. P. Act 1 of 1927, S. 3.

3. Subs. by M. P. Act 27 of 1965, S. 3.

4. Ins. by M. P. Act 23 of 1978, S. 3. for "section 34".

- (b) seize and detain any [intoxicant]¹ or other article which he has reason to believe to be liable to confiscation, under this Act or any other law for the time being in force relating to excise-revenue; and
- (c) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which he may have reasonable cause to suspect any such article to be.

(2) When any person is accused or reasonably suspected of committing an offence under this Act, and on demand of such officer refuses to give his name and residence or gives a name and residence which such officer has reason to believe to be false he may be arrested by such officer in order that his name and residence may be ascertained.

[53. If a Magistrate, upon information and after such inquiry (if any) as he thinks necessary, has reason to believe that an offence under section 34, section 35, section 36, section 36-A, section 36-B, section 36-C, section 37, section 38, section 38-A, section 39 or section 40 has been, is being or is likely to be committed, he may issue a warrant—

Power of magistrate to issue a warrant.

- (a) for the search of any place in which he has reason to believe that any intoxicant still, utensil, implement, apparatus or materials which are used for the commission of such offence, or in respect of which such offence has been, is being or is likely to be, committed, are kept or concealed; and
- (b) for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be engaged in the commission of any such offence.

54. Whenever any Excise Officer not below such rank as the State Government may, by notification, prescribe, has reason to believe that an offence under section 34, section 35, section 36, section 36-A, section 36-B, section 36-C, section 37, section 38, section 38-A, section 39, or section 40 has been, is being or is likely to be committed, and that a search-warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence he may after recording the grounds of his belief,—

Power to search without a warrant.

- (a) at any time, by day or night, enter and search any place and seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and
- (b) detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to be guilty of such offence as aforesaid.]²

1. Word subs. by A. O. 1937, for "excisable".

2. Subs. by M. P. Act 27 of 1965, S. 4.

Arrest without warrant for obstruction or assault.

[54-A. Any Excise Officer, not below such rank as the State Government may by notification specify may arrest without warrant any person who obstructs or assaults him in the execution of his duty under this Act :

Provided that every person arrested under this section shall be admitted to bail by the person arresting, if sufficient bail be tendered for his appearance before a magistrate or before a police or Excise officer, as the case may be.]¹

Powers of Excise Officers in matters of investigation

55. [(1) Any Excise Officer not below such rank and within such specified area, as the State Government may, by notification, prescribe, may, as regards offence under section 34, section 35, section 36 section 36-A, section 38-A, section 39, section 40 and section 40-A exercise the powers conferred on an officer-in-charge of a police station by the provision of Chapter XII of the Code of Criminal Procedure, 1973 (No. 2 of 1974):

Provided that any such powers shall be subject to such restrictions and modifications (if any) as the State Government may by rule prescribe.]²

(2) For the purposes of section 156 of the said Code the area in regard to which an Excise Officer is empowered under sub-section (1) shall be deemed to be a police station, and such officer shall be deemed to be the officer in charge of the station.

(3) Any such officer, specially empowered in that behalf by the State Government, may, without reference to a Magistrate and for reasons to be recorded by him in writing, stop further proceedings against any person concerned or supposed to be concerned in any offence against this Act, which he has investigated or which may have been reported to him.

Report by investigation officer.

³[56. If on an investigation by an Excise Officer empowered under sub-section (1) of section 55, it appears that there is sufficient evidence to justify the prosecution of the accused, the investigating officer, unless he proceeds under sub-section (3) of section 55, shall submit a report which shall for the purposes of section 190 of the Code of Criminal Procedure, 1973 (No. 2 of 1974) be deemed to be a police report to a Judicial Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on [police reports]⁴

Report by Excise Officer.

57. Where any Excise Officer below the rank of Collector makes any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure or search to his immediate official superior, and shall, unless bail be accepted under section 59, take or send the person arrested, or the thing seized, with all convenient despatch, to a Judicial Magistrate for trial or adjudication.

1. Ins. by C.P. and Berar Act 56 of 1948. S.6.

2. Subs. by M. P. Act 23 of 1979, S. 11.

3. Subs., ibid, S. 12.

4. Subs. by M. P Act 39 of 1982, S. 10 for "public report"

[57-A. An officer in charge of a police station shall take charge of and keep in safe custody pending the orders of a magistrate or an Excise Officer, all articles seized under this Act which may be delivered to him, and shall allow any Excise Officer who may accompany such articles to the police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.]¹

Police to take charge of articles seized.

[58. Save as in this Act otherwise expressly provided the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) relating to arrest, detentions in custody, searches, summons, warrants of arrests, search warrants, the production of persons arrested, and the disposal of things seized, shall apply, as far as may be, to all action taken in these respects under this Act.]²

Arrests, searches, etc, how to be made.

59. [(1) All offences punishable under this Act shall be bailable within the meaning of the Code of Criminal Procedure, 1973 (No. 2 of 1974).]³

Security for appearance in case of arrest without warrant.

(2) When a person is arrested under this Act otherwise than on warrant by a person or officer who has not authority to release arrested persons on bail, he shall be produced before or forwarded to —

- (a) the nearest Excise Officer who has authority to release arrested persons on bail, or
- (b) the nearest officer in charge of a police station, whoever is nearer.

(3) Whenever any person arrested under this Act, otherwise than on a warrant, is prepared to give bail, and is arrested by, or produced in accordance with sub-section (2), before an officer who has authority to release arrested persons on bail, he shall be released up on bail or, at the discretion of the officer releasing him, on his own bond.

[(4) The provisions of sections 441 to 444 and 446 and 449 of the Code of Criminal Procedure, 1973 (No. 2 of 1974), shall apply so far as may be, in every case in which bail is accepted or a bond taken under this section.]⁴

60. [* * *]⁵

[61. [(1) No court shall take cognizance of an offence punishable— Limitation of prosecutions.

- (a) under section 37, section 38, section 38-A, section 39, except on a complaint or report of the Collector or an Excise Officer not below the rank of District Excise Officer as may be authorised by the Collector in this behalf;

1. Ins. by C. P. and Berar Act 56 of 1948, S. 8.
 2. Subs. by M. P. Act 23 of 1979, S. 13.
 3. Subs. by M. P. Act 23 of 1979, S. 14 (a).
 4. Subs., ibid., S. 14 (b).
 5. Omitted by M. P. Act 23 of 1979, S. 15.
 6. Subs. by M. P. Act 23 of 1979, S. 16.

- (b) under any other section of this Act other than section 49 except on the complaint or report of an Excise Officer or Police Officer.]¹

(2) Except with the special sanction of the State Government, no Judicial Magistrate shall take cognizance of any offence punishable under this Act, or any rule or order thereunder, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.

Tender of pardon to accused person turning approver.

61-A. Whenever two or more persons are prosecuted for an offence under this Act, the Chief Judicial Magistrate or any Magistrate of the first class inquiring into or trying the offence may, for the reasons to be recorded in writing by him, tender to any accused person a pardon on condition of his making a full and true disclosure of all facts connected with the offence.]

CHAPTER IX

Miscellaneous

Power to make rules.

62. (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, the State Government may make rules—

- (a) prescribing the powers and duties of Excise Officers;
- (b) regulating the delegation of any powers or duties by the Chief Revenue Authority, the Excise Commissioner or Collectors under section 7, clause (g);
- (c) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting, and the procedure for dealing with, appeals and revisions;
- (d) regulating the import, export, transport, manufacture collection, possession, supply or storage of any intoxicant, or the cultivation of the hemp plant 2[* * *] [* *]³ and may, by such rules, among other matters,—
 - (i) regulate the tapping of tari-producing trees, the drawing of tari from such trees, the marking of the same and the maintenance of such marks,
 - (ii) declare the process by which spirit shall be denatured and the denaturation of spirit ascertained, and

1. Subs. by M. P. Act 39 of 1982, S. 11.

2. Words "or coca plant," omitted by Central Act 2 of 1930.

3. Words "Erythroxylon coca", omitted by C. P. Act 1 of 1927.

- (iii) cause spirit to be denatured through the agency or under the supervision of its own officers;
- [(d-1) regulating the import, export, transport, collection, possession, supply, storage or sale of Mahua flowers, prescribing licences and permit therefor, throughout the State or in any specified area or for any specified period;]¹
- (e) regulating the periods and localities for which, and the persons or classes of persons to whom, licences for the wholesale or retail vend of any intoxicant may be granted, and regulating the number of such licences which may be granted in any local area;
- (f) prescribing the procedure to be followed and the matters to be ascertained before any licence for such vend is granted for any locality;
- [(g) regulating the amount, time, place and manner of payment of any duty or fee or tax or penalty;]²
- (h) prescribing the authority by, the form in which, and the terms and conditions on and subject to which any licence, permit or pass shall be granted, and may by such rules, among other matters,—
 - (i) fix the period for which any licence, permit or pass shall continue in force,
 - (ii) prescribe the scale of fees or the manner of fixing the fees payable in respect of any such licence, permit or pass,
 - (iii) prescribe the amount of security to be deposited by holders of any licence, permit or pass for the performance of the conditions of the same,
 - (iv) prescribe the accounts to be maintained and the returns to be submitted by licence-holders, and
 - (v) prohibit or regulate the partnership in, or the transfer of, licences;
- (i) prescribing the measures for ascertaining local public opinion and providing for the appointment of advisory committees and specifying their powers and duties;
- (j) providing for the destruction or other disposal of any intoxicant deemed to be unfit for use;
- (k) regulating the disposal of confiscated articles;

1. Ins. by M. P. Act 23 of 1958, S. 3 (3) Schedule, Part A, item 21.

2. Subs. by M. P. Act 39 of 1982, S. 12.

- (l) regulating the grant of expenses to witnesses and of compensation to persons charged with offences under this Act and subsequently released, discharged or acquitted; and
- (m) regulating the power of Excise Officers to summon witnesses for a distance;
- [(n) regulating the payment of rewards to officers, informers and other persons out of the proceeds of fines and confiscations under this Act.]¹

(3) The power conferred by this section of making rules is subject to the condition that the rules made under sub-section (2), (a), (b), (c), (e), (f), (i) (l) and (m) shall be made after previous publication :

Provided that any such rules may be made without previous publication if the State Government considers that they should be brought into force at once.

Publication of rules and notifications.

63. All rules made and notifications issued under this Act shall be published in the Official Gazette, and shall have effect from the date of such publication or from such other date as may be specified in that behalf.

Recovery of Government dues.

64. (1) The following moneys, namely,—

- (a) all excise-revenue,
- (b) any loss that may accrue when, in consequence of default, a grant has been taken under management by the Collector, or has been re-sold by him, and

[(c) notwithstanding anything contained in section 74 of the Contract Act, 1872 (No. 9 of 1872) all amounts due to the Government by any person on account of any contract relating to the excise revenue in accordance with any provision of this Act or rules made thereunder, and all amounts to be paid on breach of conditions of a bond or instrument by which a person binds himself to perform any duty or act or undertakes that he and his servants and agents will abstain from any act,]²

may be recovered from the person primarily liable to pay the same, or from his surety (if any); by distress and sale of his movable property, or by any other process for the recovery of land revenue due from land-holders or from farmers of land or their sureties.

(2) When a grant has been taken under management by the Collector, or has been re-sold by him, the Collector may recover, in any manner authorised by sub-section (1), any money due to the defaulter by any lessee or assignee.

1. Ins. by C. P. Act 6 of 1934, S. 18.

2. Subs. by M. P. Act 3 of 1982, S. 13.

65. In the event of default by any person licenced or holding a lease under this Act, all his distillery, brewery or warehouse or shop buildings, fittings or apparatus and all stock of intoxicants or materials for manufacture of the same held in or upon any distillery, brewery, warehouse or shop premises shall be liable to be attached in satisfaction of any claim for excise-revenue or in respect of any losses incurred by the Government through such default and to be sold to satisfy such claim, which shall be a first charge upon the sale proceeds.

Government line on property of defaulters.

66. The State Government may, by notification, either wholly or partially and subject to such conditions as it may think fit to prescribe, exempt any person or class of persons or any intoxicant wholly or partially from all or any of the provisions of this Act, or of all or any of the rules made under this Act, either throughout the [State]¹ or in any specified area comprised therein, or for any specified period or occasion.

Power of State Government to exempt persons or intoxicants from the provisions of the Act.

67. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection to persons acting under the Act.

68. No suit shall lie against the Government or against any Excise, Police or Land Revenue Officer in respect of anything done, or alleged to have been done, in pursuance of this Act, unless the suit is instituted within six months from the date of the Act complained of.

Limitation of suits.

69. The enactments mentioned in the schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeal of enactments.

[THE FIRST SCHEDULE]²

(See section 69)

ENACTMENTS REPEALED

Year (1)	No. (2)	Short title (3)	Extent of repeal (4)
1863	XVI	The Excise (Spirits) Act, 1863.	So much as has not been repealed.
1894	VIII	The Indian Tariff Act, 1894.	Section 6.
1896	XII	The Excise Act, 1896	So much as has not been repealed.
1906	VII	The Excise (Amendment) Act, 1906.	The whole.

1. Subs. by M. P. Act 23 of 1958, for "Mahakoshal region"

2. Subs. by C. P. Act 6 of 1934, for "SCHEDULE"

[THE SECOND SCHEDULE]¹

(See section 36-D)

Bonds to abstain from the commission of offences under sections 34 and 36 of the Madhya Pradesh Excise Act, 1915.

Whereas (name), inhabitant of (place), has been called upon to enter into a bond to abstain from the commission of offences under section 34 and section 36 of the Madhya Pradesh Excise Act, 1915, for the term of....I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to [the State Government]², the sum of rupees.....

Dated, this.....day of.....19

Signature

(where a bond with sureties is to be executed, add)–

We (1) (name), inhabitant of (place), and (2) (name), inhabitant of (place), declare ourselves sureties for the above named (name of the person executing the bond) that he will abstain from the commission of offences under section 34 and section 36 of the Madhya Pradesh Excise Act, 1915 during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to [the State Government]² the sum of rupees.....

Dated, this.....day of.....19

Signature

1. Added by C. P. Act 6 of 1934.

2. Sups. by A. O. 1950 for "His Majesty the king Emperor of India."